

Rosebud County
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Comments for consideration by the Local Government Interim Study Committee on the question of County Road Rights-Of-Way On School Trust Land.

The current debate requiring Counties to purchase rights-of-way across School Trust centers on the payment for the use of the School Trust "dirt" without distinction for purpose, person, or position. The broader concept of public rights-of-way in Montana has its roots in the Organic Act of 1864. The practical application of public rights-of-way has changed over time similar to the change from open range to barb wire. Public right-of-way is currently being tempered by the concept of insurable access. Every land owner in Montana has the expectation of access to their property. School Trust also has that same expectation of access. Access to School Trust land is a critical element to achieving highest and best use of the land. School Trust cannot hold itself separate because it is an integral component of the public transportation system that extends beyond individual county boundaries to the far reaches of the State of Montana. School Trust, by limiting itself to the narrow "payment for dirt" view is placing an artificial ceiling on the revenue generating capabilities of the trust land.

Public rights-of-way are an issue all across Montana and needs to be addressed at the State level as part of the resolution to the School Trust debate. Attempting to solve such as issue at the individual county level is only a band-aid approach. Rosebud County supports SJ-20, as authored by Senator Tutvedt.

Rosebud County's Road Research Project is nearly 1/3 complete, and progressing slowly. There are about 50 parcels of School Trust land within the County. About 32 School Trust parcels are affected by a public road right-of-way. Perfection of Rosebud County's interest in specific road alignments is going much slower as exceptions to the rule are common, the rule being Montana Code Annotated Title 7 Chapter 14 Part 26. Two of these exceptions that demonstrate that the issue exceeds county jurisdiction are worth mentioning here.

Case 1: A School Trust section lies in Rosebud County, but is only accessible thorough an adjoining county. Rosebud County is of the opinion that acquiring an easement across this parcel is not in our best interests.

Case 2: A School Trust section lies in Yellowstone County. The historic right-of-way easement has been granted to Rosebud County. Physical access is only available through Musselshell County.

Thanks For your consideration.

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Education and Local Government
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EXHIBIT 21